

December 21, 1954

NEW HAMPSHIRE LAW LIBRARY

James J. Barry, Commissioner  
Department of Public Welfare  
State House  
Concord, New Hampshire

SEP 22 1998

CONCORD, N.H.

Re: Preservation of Records

Dear Mr. Barry:

You have inquired by your letter of December 16, 1954 for my opinion as to the interpretation of the words in R. L., c. 126, s. 32 as inserted by c. 12, s. 2 Laws of 1943: "At the end of ten years from the date of filing" in terms of whether the date of filing can be counted from the date of opening of a case or from the date of closing.

It is my opinion that with respect to case records the time should be counted from the date of closing. Section 3-a is designed to permit the destruction of records which are no longer of any value to the state. However, in order to prevent indiscriminate destruction the legislature has stated that records, reports and other documents are of value to the state for at least a period of ten years following their filing. It would be inconsistent with this legislative determination in respect to case records to destroy records, reports or other documents in a closed case which may be more than ten years old when other portions are less than that old. A case record is continuing record and in my opinion the section will not permit destruction of any portion thereof until it has been closed and filed for at least a period of ten years. Final destruction will depend upon a decision by the board of public welfare that in its opinion the record is of no value to the state.

When such a decision is made the entire record may be destroyed or only a portion thereof with the remaining portions micro-filmed.

You have further inquired whether in respect to cases closed less than ten years the record may be microfilmed. C.279, s.1. Laws of 1947 provides for destruction of state records found to be

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unnecessary and for the microfilming of records required to be kept by law. As the records of your department must by law be kept for a ten year period recourse to said c. 229 may be had prior to the expiration of the time period only if the entire record is micro-filmed. A selection for microfilming and preservation in this manner with destruction of other material may be made only when permissible in accordance with R. L. c. 126, s. 3a as inserted by c.12, s.2 Laws of 1943.

Very truly yours,

Richard C. Duncan  
Assistant Attorney General

RCD/G